

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>I-1-0064.5US</b>									
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____	Application Number <b>10/757,222</b>	Filed <b>January 14, 2004</b>									
	First Named Inventor <b>John David Kaewell Jr.</b>										
	Art Unit <b>2618</b>	Examiner <b>Junpeng Chen</b>									
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top; padding-bottom: 10px; text-align: right;">/Robert D. Leonard/ _____ Signature</td></tr><tr><td style="vertical-align: top; padding-bottom: 10px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top; padding-bottom: 10px; text-align: right;">Robert D. Leonard _____ Typed or printed name</td></tr><tr><td style="vertical-align: top; padding-bottom: 10px;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number <b>57,204</b></td><td style="vertical-align: top; padding-bottom: 10px; text-align: right;">215-568-6400 _____ Telephone number</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top; text-align: right;">August 13, 2009 _____ Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	/Robert D. Leonard/ _____ Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Robert D. Leonard _____ Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. Registration number <b>57,204</b>	215-568-6400 _____ Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	August 13, 2009 _____ Date
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<input type="checkbox"/> *Total of _____ forms are submitted.											

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the **PATENT APPLICATION** of:

John David Kaewell Jr. et al.

**Application No.:** 10/757,222

**Confirmation No.:** 3792

**Filed:** January 14, 2004

For: SUBSCRIBER TERMINAL  
TEMPERATURE REGULATION

Group: 2618

Examiner: Junpeng Chen

Our File: I-1-0064.5US

Date: August 13, 2009

**PRE-APPEAL BRIEF  
REQUEST FOR REVIEW**

Mail Stop AF (Via EFS)  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

A Pre-Appeal Brief Review is hereby requested in the above identified patent application, for the reason that the Examiner has not cited a reference which discloses *at least one intermediate power consumption level* as recited in the currently pending claims.

Claims 9-12, 14-16, 18-22, 24-32, 34-36, and 38-39 are currently pending in this application. These claims are rejected under 35 U.S.C. 102(b) as being unpatentable over 5,150,361 to Wieczorek et al. (hereinafter Wieczorek).

In the August 4, 2009 Advisory Action, the Examiner maintains the rejection of the pending claims stating as follows.

Wieczorek discloses a low power mode (read as the claimed at least one intermediate power consumption level mode, wherein only essential circuit elements are on), a non-energy saving mode (read as the claimed on power consumption level mode, wherein all circuits are activated for communication). In addition, as well known in the art, when the communication device, which operate under power supplied by battery, is turned off (i.e. powered off by pressing the power off key to deactivate all circuits an no power consumptions at all), it is in off power consumption mode.

As previously argued, Applicants submit that the Examiner's rejection is improper as the Examiner is reading the low power mode taught by Wieczorek as both the claimed *off power consumption level* and the claimed *at least one intermediate power consumption level*.

The portion of Wieczorek upon which the Examiner relies is reproduced below.

According to the invention, the communication unit may be made to function in one of two operational mode: a low power or energy saving mode and a high power or non energy saving mode. (see *Wieczorek*, column 5, lines 4-7, *emphasis added*.)

Clearly Wieczorek discloses only two operational modes. Wieczorek further defines operation of various device components in the "low power or energy saving mode" introduced above as follows.

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In order to conserve energy, the controller 320 periodically deactivates non-essential circuits...(see *Wieczorek*, column 4, lines 45-47, *emphasis added*).

Wieczorek only teaches fully activated circuit components or fully deactivated circuit components, as evidenced by the above citations. Accordingly, Wieczorek only teaches two power consumption levels. These two power consumption levels taught by Wieczorek consist of a fully powered, on power consumption level and a deactivated, powered down, off power consumption level.

As noted above, the Examiner states that "Wieczorek discloses a low power mode (read as the claimed at least one intermediate power consumption level mode, wherein only essential circuit elements are on)." Wieczorek discloses that non-essential circuits may be periodically deactivated in order to conserve energy. A deactivated circuit in the low power or energy saving mode taught by Wieczorek is in an identical power state as when the communication unit is powered off. Thus these power modes are equivalent, and Wieczorek therefore only teaches two power modes.

The Examiner fails to show a teaching in Wieczorek of the claimed *intermediate power consumption level*, that by its plain meaning is a power consumption level between an *on power consumption level* and an *off power*

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*consumption level*. It is respectfully submitted that Wieczorek fails to teach or even suggest an *intermediate power consumption* level as claimed.

Although not clear in any of the Examiner's rejections, the Examiner may be interpreting the power save mode of Wieczorek where some circuit components are on and some are off to be equivalent to the claimed *intermediate power consumption level*. If this is the case, the Examiner is reminded that the pending claims recite *a plurality of circuit components...having an on power consumption level, an off power consumption level, and at least one intermediate power consumption level*. In other words, the claimed power consumption levels are related to each of a plurality of circuit components, not the entire TDMA wireless subscriber unit. Wieczorek does not teach an *on power consumption level, an off power consumption level, and at least one intermediate power consumption level* for each of a plurality of circuit components. As detailed above, Wieczorek only teaches two power states for a circuit component.

Furthermore, the Examiner's assertion that the powered off state of the communication device ("i.e. powered off by pressing the power off key to deactivate all circuits and no power consumptions at all") is a signal processing state as claimed is improper. The claims recite *at least one of the plurality of circuit components transition[] among the plurality of signal processing states based on a*

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*time slot of a TDMA frame. It is not possible to transition[] among the plurality of signal processing states based on a time slot of a TDMA frame, as claimed, where one of the plurality of signal processing states is a state where the entire communication device is powered off. A transition to/from a state in response to pressing a button is not equivalent to transitioning to/from a state based on a time slot.*

Independent claims 9, 19, and 29 recite similar elements. Claims 10-12, 14-16, and 18 are dependent upon claim 9, claims 20-22, 24-28 are dependent upon claims 19, and claims 30-32, 34-36, and 38-39 are dependent upon claim 29. Applicants believe these claims are allowable over the cited references of record for the reasons provided above.

Based on these arguments, withdrawal of the 35 U.S.C. §102(b) rejection is respectfully requested.

Respectfully submitted,  
Kaewell et al.

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